THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.20338 of 2005

Date:15.09.2005

K.Gopalappa

----------Petitioner

The Depot Manager, APSRTC, Hindupur Depot,

Hindupur, Anantapur District and another

----------Respondents

ORDER:

The petitioner is employed as a Driver in APSRTC. He was issued a Charge Sheet, dated 19.08.1998, alleging that he reversed the vehicle bearing Registration No.3745 on 06.03.1995 without the knowledge of the Service Conductor, resulting in a major accident and causing fractures to an old pedestrian, and that he was required to submit the explanation as to why necessary disciplinary action shall not be taken against him. The petitioner submitted his explanation to the same. On a consideration of the same, the 1st respondent passed an order, dated 26.06.1995, imposing the penalty of stoppage of annual increment for a period of one year with cumulative effect. The petitioner preferred an appeal before the 2nd respondent against that order. It was rejected on 19.08.1998. Hence, this writ petition.

The only point urged by Ms. Shakeera Banu, the learned counsel for the petitioner, is that the 1st respondent imposed the penalty of stoppage of annual increment for a period of one year with cumulative effect without conducting departmental enquiry. He placed reliance upon the judgment of the Apex Court i n ***KULWANTH SINGH GILL v. STATE OF PUNJAB*** and submits that stoppage of increment is a major penalty and it cannot be imposed, except by conducting departmental enquiry.

Sri P.Vinayaka Swamy, the learned Standing Counsel appearing for the

respondents, on the other hand, submits that the penalty imposed against the petitioner itself is minimal, if the lapse on his part is taken into account.

It is a matter of record that the 1st respondent imposed the penalty of stoppage of annual increment for a period of one year with cumulative effect on the basis of the charges levelled against him. Though the charge sheet was issued to the petitioner before the penalty was imposed, no departmental enquiry was conducted. In ***KULWANTH SINGH GILL's case*** (supra), the Supreme Court held that stoppage of increments with cumulative effect is a major penalty and it cannot be imposed, except by conducting departmental enquiry. In view of the same, the impugned order cannot be sustained.

In the ordinary course of things, the impugned order needs to be set aside, leaving it open to the 1st respondent to pass fresh orders. To avoid further delay and complication in the mater, this Court is of the view that the impugned order can be treated as the one for stoppage of annual increment without cumulative effect.

Hence, the writ petition is partly allowed, directing that the order, dated 26.06.1995, passed by the 1st respondent shall be treated as the one for stoppage of annual increment without cumulative effect and that the petitioner shall not be entitled for any monetary benefits up to the date of this order. There shall be no order as to costs.

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15.09.2005

Jsu